

**CCA Case No. 19043 – Kaniesha Gray  
Investigation Report and Finding**

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**Morgan Givens  
Investigator**

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## COMPLAINT SUMMARY

Date: March 2, 2019

Time: 4:11 PM

Location: 710 Clark Street

CCA Receipt: March 4, 2019

Complainant: Kaniesha Gray

On March 2, 2019, Ms. Kaniesha Gray became involved in a dispute with her roommates which resulted in Officers Shayna Norman and Michael Lowe being dispatched to the scene. The tension at the scene continued to mount after the officers' arrival; as they took control of the scene, parties were made to separate, and Ms. Gray was asked to leave the residence.

Ms. Gray alleged that Officer Norman assaulted, choked, and threw her the ground prior to her transport to the Hamilton County Justice Center (HCJC).

## INVOLVED SUBJECT STATEMENTS

### Kaniesha Gray

Ms. Kaniesha Gray, F/B/24 was unable to be interviewed. CCA attempted to contact her at her listed telephone number and by mail at her residence, but there was no response. To date, Kaniesha Gray has not contacted CCA. Per CPD, she provided the following statement to CPD, wherein she alleged she was, "assaulted, choked, and thrown to the ground" by Officer Norman.

## INVOLVED OFFICER STATEMENTS

### Shayna Norman

Officer Shayna B. Norman, #PO118, F/W/33 is currently assigned to District 1, and she has been a CPD member since 2014. Officer Norman was on routine patrol, in uniform and operated a marked cruiser with Officer Lowe; her BWC was activated.

Officers Norman and Lowe were dispatched to 710 Clark Street to assist Witness A in removing an unwanted house guest. Witness A stated that the guest, Kaniesha Gray, had only been staying with her for a few weeks. When Witness A asked Ms. Gray to leave, they began arguing and Witness A alleged that Ms. Gray began to destroy things in the home. Ms. Gray was no longer on scene when the officers arrived, but Witness A told Officer Norman that she would probably return. Officer Norman asked Witness A a few questions to determine if Ms. Gray had established residence there, including where she slept, how many things she had in the home, and whether she received any mail. Ms. Gray informed her that she usually slept on the couch, only had two bags, and did not receive any mail at the address. Officer Norman observed that the second bedroom of the two-bedroom home looked like a little girl's room and was told that it

belonged to Witness A's daughter. Based on this evidence, Officer Norman concluded that the home appeared to be occupied only by Witness A and her daughter. Officer Norman did not observe any damage to the property and told Witness A to have Ms. Gray's belongings ready by the door in case she returned. The officers told Witness A to give them a call back if Ms. Gray returned or there were any problems and left the residence.

Approximately 30-45 minutes later, the Officers received another call stating that Ms. Gray had returned and was very upset. The Officers went back to the home to find that Ms. Gray had once again left, but Ms. Gray's mother and several other women ("7 or 8") were in the home. Officer Norman understood that some were Witness A's friends, and some were Ms. Gray's friends or family, and they were all "arguing, talking loud." Officer Norman told the women that whoever Witness A did not want in the house had to leave. The women exited from the back door and Officer Norman followed. One of Ms. Gray's friends or family members told Officer Lowe that she needed to get Ms. Gray's belongings. Officer Norman said she would retrieve the items and went back inside. Witness A gave her the two bags that belonged to Ms. Gray and Officer Norman took them outside.

Ms. Gray had just returned, also at the back of the house. She wanted to go back into the house, but Officer Norman would not let her. She began yelling and insisted that she had more belongings inside. Officer Norman told her that she would have to settle it civilly. Officer Norman claimed, "that made her very upset. She said, 'I don't care. I'll go to jail. I'll bond out and I'm coming back and I'm beating everybody's [EXPLATIVE].'" She began pounding her fist with her hand and stepped into Officer Norman's face, about 2 or 3 inches away. Officer Norman reported that she does not remember exactly what Ms. Gray said at that point, but Ms. Gray was yelling in Officer Norman's face and Officer Norman felt that something may happen, so she "shaded" Ms. Gray away from her, a term Officer Norman described as "with open hands, pushed her out of my space, because I felt threatened."

Ms. Gray took a couple steps back and then rushed past Officer Norman into the house. Ms. Gray assaulted Witness A as several of the women tried to push her off. Officer Norman radioed for backup. Ms. Gray pulled Witness A's wig off just as Officer Lowe came behind Ms. Gray and wrapped his arms around Ms. Gray, in what Officer Norman described as a "bear hug." Officer Lowe pulled Ms. Gray out of the house. Officer Norman tried to gain control of Ms. Gray's arms to put them behind her back as Ms. Gray "was resisting the whole time, like using force, her muscular force." Officer Norman told Ms. Gray that she was under arrest and Ms. Gray replied, "oh you're mad. You're mad." Officer Lowe tried to displace Ms. Gray's balance so that she couldn't resist by bracing her up against an air conditioner. The Officers were able to get Ms. Gray's arms behind her back and place the handcuffs. More Officers began to arrive. Officer Norman took Ms. Gray to the front and secured her in her vehicle while Officer Lowe "attempted to do crowd control."

Officer Norman denied that Ms. Gray was ever choked, assaulted, struck/punched/hit/kicked, or thrown to the ground.

OFFICER WITNESS STATEMENTS	
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**Michael Lowe**

Officer Michael Lowe, #PO182, M/B/48, is currently assigned to District 1, and he has been a CPD member since 2015.

Officer Lowe was on routine patrol, in uniform and operated a marked cruiser [with Officer Norman]; his BWC was activated but turned off early.

Officers Lowe and Norman were dispatched to a routine radio run involving a subject (Ms. Gray) returning to a house that she wasn't supposed to be at. When the Officers first arrived, Ms. Gray was no longer present. The rent owner (Witness A) reported that Ms. Gray got aggressive with her and she told Ms. Gray not to return. The Officers advised Witness A to give them a call if Ms. Gray returned.

Ms. Gray returned and Witness A called the Officers back, but Ms. Gray was again not there when they arrived. However, Ms. Gray's mother and sister were inside of the residence. The Officers advised them that they needed to leave. Officer Lowe claimed that the Officers had to tell them multiple times to leave.

Ms. Gray returned and went around to the back of the house. Officer Norman shut the door so that nobody could "bombard back inside." Officer Lowe said that Ms. Gray continued to overrun Officer Norman and "jumped in her face," at which point Officer Lowe grabbed her. Ms. Gray refused to be placed into custody, so he said he had to restrain her. Officer Norman helped Officer Lowe place handcuffs on Ms. Gray as they radioed for backup. Officer Lowe reported that there "[were] about 5 family members, 2 Officers, and the young lady that rents the home and a couple of her friends," whom the Officers tried to keep separated until help arrived. Officer Lowe stated, "as we got [Ms. Gray] cuffed, we got her out to the front yard and the car and that was pretty much the end of that incident."

### **Alicia Bruewer**

Officer Alicia Bruewer, #PO374, F/W/35, is currently assigned to District 1, and she has been a CPD member since 2008. Officer Bruewer was on routine patrol, in uniform and operated a marked cruiser; her BWC was activated.

On March 2<sup>nd</sup>, 2019, Officer Bruewer responded to an Officers' call for assistance and reported that she was one of the first Officers on scene. When asked by CCA if her BWC was activated, Officer Bruewer replied, "Yeah. It should have been."

When Officer Bruewer arrived on the scene, she ran to the back of the house and encountered Officer Norman with "what appeared to be a prisoner." Officer Bruewer claimed that the prisoner (Ms. Gray) was compliant. Officer Bruewer reportedly made sure "she" was okay (it is unclear if Officer Bruewer was referring to Ms. Gray or to Officer Norman when described her efforts to CCA). Officer Bruewer continued around to the back to make sure nobody else was fighting.

At the back of the house, Officer Bruewer encountered another Officer and noted that "there was a lot of yelling and screaming, not by the Officer. By the other individuals." Eventually they went their separate ways and the Officers returned to the front to make sure Officer Norman was ok.

Officer Bruewer then took control of Ms. Gray from Officer Norman, because "there was some discrepancies of what happened," and, in an attempt to diffuse the situation, Officer Bruewer transported Ms. Gray back to the district. Ms. Gray was visibly upset and told Officer Bruewer that she wanted to "talk to a boss" because she was assaulted by Officer Norman. Officer Bruewer brought out her boss (unnamed) to speak with Ms. Gray and then Officer Bruewer transported her to the justice center.

## WITNESS STATEMENTS

There were none.

## SIGNIFICANT DISCREPANCIES AND CLARIFICATIONS

Officer Bruewer admitted to arriving on the scene first after the Officer assistance call and can be seen in Officers Ball and Hall's BWC footage before she activated hers. Additionally, the beginning of Officer Bruewer's BWC clearly shows her coming from the back of the home to the front, indicating that she was already there for some time before activating her BWC.

Officer Norman's BWC was not available after the altercation because it was knocked off and was not found for several minutes.

## EVIDENCE

CCA reviewed all relevant CPD-related forms and recordings.

### **Body Worn Camera (BWC)**

#### **Officer Norman**

Officer Norman arrived on the scene and approached the home. Yelling can be heard coming from inside the home, where Officer Lowe was standing in the doorway. A woman walked out of the house and told the Officers that her daughter had been living there for over a year and was paying rent to another woman (Witness A). Officer Norman asked the woman if her daughter had proof, to which the woman said she was "pretty sure" she did. She told Officer Norman that everything in the unit belonged to her daughter and said, "This is ridiculous, I mean, it's crazy, they falling out about whatever, cause they was always friends, my daughter been staying here a whole year." Officer Norman asked if her daughter was there. She told the Officers that she would arrive soon.

Witness A and another woman appeared in the doorway and Witness A asked the Officers, "can y'all get them out of my house, please?!" The Officers entered the home where several women were yelling and arguing with each other. Officer Norman pointed at Witness A and said, "she is the owner of the house, and anybody that she doesn't want in here will get out." A woman who identified herself as Ms. Gray's sister spoke briefly with Officer Lowe in the hallway before exiting the back of the house. As she was leaving, she said something that could not be heard on the BWC, but the other women yelled in response and Officer Lowe swiftly followed her out of the house. Officer Norman and at least one other woman followed.

Once outside, Officer Lowe and the women can be heard arguing loudly. Officer Norman walked to the end of the back porch and turned towards the sidewalk/parking lot area where Officer Lowe and the two women were standing. Officer Lowe told the women, "Y'all not gonna disrespect the young lady in her own house." As one of the women went back inside, Ms. Gray's mother exited and told the Officers, "But it's not her – y'all don't get what I'm saying, this is not" Officer Lowe interrupted, "Ma'am, if she's not on the lease then she doesn't live here." Ms.

Gray's mother and Officer Lowe briefly went back and forth on the issue until Officer Lowe told her, "Go to small claims court."

Officer Norman returned to the back door of the house and opened it. The woman identified as Ms. Gray's sister said, "can I get my sister's stuff out of here please?" Officer Norman told her not to go back into the house and that she would retrieve the items. Officer Norman went inside, and Witness A informed her that a bag of items in the hallway was everything that belonged to Ms. Gray. Officer Norman took the bag out the back door and told Ms. Gray's family, "she says this is all." Ms. Gray's mother and Ms. Gray, who had just arrived, loudly proclaimed that more of her things were inside. Officer Norman walked back to the door and closed it, saying, "anything else you have in there, you need to file a civil suit." Ms. Gray responded, "I'm gonna talk to [Witness A]; tell [Witness A] to come out," and became agitated when Officer Norman told her she could not.

Ms. Gray yelled, "what the [EXPLETIVE] do you mean, I'm gonna go to jail today and I'm going to bond out!" As she yelled, "I'm going to beat the [EXPLETIVE] out of whoever," she repeatedly punched her left hand with her right fist. Ms. Gray then jumped towards Officer Norman and Officer Norman used her hands to push her back. At this point, several others began screaming over top of each other and a scuffle ensued. Officer Norman grabbed Ms. Gray's arm and tried to bring it behind her back, but Ms. Gray broke free and ran into the house. Officer Lowe immediately followed. The scuffle inside was brief, as Officer Lowe quickly grabbed Ms. Gray by wrapping both arms around her. Ms. Gray can be seen with a wig in her hand as Officer Lowe brought her outside, where she immediately dropped it on the ground.

Officer Lowe brought Ms. Gray over to an air conditioner and forced her to bend over it as he and Officer Norman tried to place handcuffs on Ms. Gray. Ms. Gray actively resisted. At some point during the altercation, Officer Norman's BWC was knocked off her person and landed near the air conditioning unit. Multiple people continued yelling and Officer Norman can be heard yelling, "put your hands behind your back!" repeatedly. Ms. Gray replies, "I have my mother [EXPLETIVE] hands behind my back" and the handcuffs were placed. The yelling continued for the next several minutes, but nothing can be seen from the dropped BWC. An unidentified Officer located the BWC several minutes later and turned it off.

### **Officer Lowe**

Officer Lowe arrived on the scene and approached the home alone. Ms. Gray's mother answered the door and began explaining to Officer Lowe that her daughter paid rent to Witness A and claimed that "everything in this apartment belongs to [her]". About a minute later, Officer Norman approached the home and began speaking with Ms. Gray's mother.

From this point, Officer Lowe's BWC corroborates Officer Norman's; however, Officer Lowe turned his BWC off just after the handcuffs were placed.

### **Officer Bruewer**

Officer Bruewer's BWC footage begins as she is walking from the back of the house to the front, just behind Ms. Gray's family. As Ms. Gray's family loads her things in the back of a car, Ms. Gray's sister exclaimed, "y'all playing dirty!" Officer Bruewer told them both that they didn't need to say anything and to put the items in the car and leave.

## Officer Ball

Officer Ball's BWC footage began with Officer Norman walking away from a police vehicle and asking another Officer to keep an eye on her prisoner. Moments later, Officer Bruewer is seen walking from the back of the home to the front.

## Officer Hall

Officer Hall's BWC was turned on as he approached the back of the house. Several officers and individuals were standing on or near the back porch, including Officers Lowe (after he deactivated his BWC) and Bruewer (before she activated her BWC).

## Hamilton County Clerk of Courts

Ms. Gray was charged with Ohio Revised Code (ORC) 2903.13 Assault and ORC 2917.11 Disorderly Conduct. She was ultimately convicted by plea of Disorderly Conduct and the Assault charge was dismissed.

## AUTHORITIES

### I. CPD Procedure Manual (in part)

#### § 12.545 Use of Force

##### Definitions:

**Actively Resisting Arrest** – When the subject is making physically evasive movements to defeat the officer's attempt at control, including fleeing, bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.

**Choke holds** – The courts could consider a choke hold or other similar type holds as deadly force. Choke holds are prohibited unless a situation arises where the use of deadly force is permissible under existing law and Department policy. The use of any type choke hold to prevent the swallowing of evidence is prohibited.

**Crowd Management** – The observing, monitoring, and facilitating the activities of persons assembled.

**Crowd Control** – The use of police action to stop the activities of persons assembled.

**Deadly Force** – Force likely to cause, or capable of causing, death.

**De-escalation** – Using non-confrontational verbal skills, empathy and active listening to stabilize a person in crisis. De-escalation may also incorporate the use of additional time, distance and resources as well as persuasion, command presence, repositioning, and warnings, to reduce the intensity of a potentially violent situation to decrease the potential need to use force.

**Escorting** – The use of light pressure to guide a person or keep a person in place.

**Force** – Any physical strike, instrumental contact with a person, or any significant physical contact that restricts movement of a person. The term includes, but is not limited to, the use



of: firearms, TASERS, chemical irritant, choke holds or hard hands, the taking of a subject to the ground, or the deployment of a canine. The term does not include escorting or handcuffing a person with no or minimal resistance.

**Hard Hands** – The use of physical pressure to force a person against an object or the ground, use of physical strength or skill that causes pain or leaves a mark, leverage displacement, joint manipulation, pain compliance, and pressure point control tactics.

**Objective Reasonableness** – The standard, as set forth by the Fourth Amendment U.S. Constitution and defined by the Supreme Court of the United States, by which all uses of force will be judged.

**Serious Use of Force** – Any action that involves: a critical firearm discharge; the use of deadly force; a baton strike to the head; or a use of force in which the person is seriously injured or requires hospital admission, with the exception of individuals admitted for psychiatric evaluation not suffering a serious injury.

**Self-Defense** – The act of protecting oneself or another from physical harm or serious physical harm.

**Serious Injury/Serious Physical Harm to Persons** – Any physical harm that carries a substantial risk of death, permanent incapacity, temporary substantial incapacity, permanent disfigurement, or temporary serious disfigurement.

#### **Information:**

**Use of Force Continuum:** Force situations do not allow for an ordinal progression up a continuum of force and officers but be ready to escalate or de-escalate as the situation evolves.

#### **Policy:**

The Cincinnati Police Department recognizes the value of all human life and is committed to respecting the Constitutional rights and dignity of every individual. Officers shall act within the boundaries of the United States Constitution, the laws, and constitution of the state of Ohio, the charter and ordinances of the city of Cincinnati, this use of force procedure, and all other relevant CPD procedures, policies, practices and training.

A police officer's right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion, or threat thereof, to effect it. Determining whether the force used to affect a particular seizure is reasonable under the Fourth Amendment requires a careful balancing of the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake (Graham v. Connor, 1989). The decision to use force "requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. ... (T)he 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them" (Graham v. Connor, 1989).

A number of factors may be taken into consideration to evaluate whether an officer has used objectively reasonable force. These factors include, but are not limited to:

- The conduct of the person being confronted as reasonably perceived by the officer at the time, including the level of threat or resistance presented by the subject.
- The officer's and subject's factors, including but not limited to: size, age, relative strength, skill level, injuries sustained, level of exhaustion or fatigue and the number of officers versus subjects.
- The influence of drugs or alcohol and the subject's mental capacity, if known. • The proximity of weapons.
- The distance between the officer and subject.
- The degree to which the subject has been effectively restrained and his / her ability to resist despite being restrained.
- Time and circumstances permitting, the availability of other options (resources that are reasonably available to the officer under the circumstances).
- The seriousness of the suspected offense or reason for the contact with the individual.
- The training and experience of the officer.
- The potential for injury to citizens, officers and suspects.
- Whether the conduct of the individual being confronted reasonably appears to pose an imminent threat to the officers or others.
- The prior knowledge of the subject's propensity for violence.
- Any other exigent circumstance or special knowledge

Courtesy in all public contacts encourages understanding and cooperation. The most desirable method for effecting an arrest is where a suspect complies with clear and concise directions given by an officer.

Whenever possible, de-escalation techniques shall be employed to gain voluntary compliance by a subject. Officers shall use only the level of force that is objectively reasonable to effect an arrest or while protecting the safety of the officer and others.

Officers should attempt to achieve control through advice, delay, warnings, and/or persuasion when confronted with a situation where control is required to effect an arrest or protect the public's safety. The suspect should be allowed to submit to arrest before force is used, unless this causes unnecessary danger to the officer or others.

**When officers have a right to make an arrest, they may use whatever force is reasonably necessary to apprehend the offender or effect the arrest and no more. Just as officers must be prepared to respond appropriately to rising levels of resistance, they must likewise be prepared to promptly de-escalate the use of force as the subject de-escalates or comes under police control.**

Officers must avoid using unnecessary violence. Their privilege to use force is not limited to that amount of force necessary to protect themselves or others, but extends to that amount reasonably necessary to enable them to effect the arrest of an **actively resistant** subject.

An officer has a duty to stop, prevent and report the use of excessive force by another officer. Officers who use excessive force will be subject to discipline, possible criminal prosecution, and/or civil liability.

All members have a duty to ensure all use of force incidents and any citizen allegation of excessive force are reported to the Police Department. Whenever employees use any type of force; or confront resistance that results in an injury or complaint of injury to a citizen; or have knowledge of any of the above; or are aware of a citizen complaint of excessive force,

they will promptly notify a supervisor. The supervisor or command officer investigating the incident must be of at least the next higher rank than the officer(s) who used force. The only exception is when a lieutenant uses force and there is no captain or above working, but an acting Night Chief is available. In this case, the acting Night Chief can conduct the investigation.

### Examples of Subject Resistance

- Uncooperative: Subject fails to respond to verbal commands or other directions.
- Active resistance: Subject is making physically evasive movements to defeat the officer's attempt at control, including bracing, tensing, pushing, fleeing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.
- Assault or threat of assault: Subject assumes fighting stance, charges, strikes, or kicks an officer or verbally or physically indicates an intention to commit an assault combined with the subject's capability to assault.
- Life threatening assault or assault likely to cause serious physical harm: Subject commits an attack using an object, a weapon, or an empty hand assault, wherein the officer reasonably believes the assault will result in serious physical harm and/or death.

Depending on the circumstances, officers may find it necessary to escalate or de-escalate the use of force by progressing up and down the force continuum. It is not the intent of this continuum to require officers to try each of the options before moving to the next, as long as the level of force used is reasonable under the circumstances.

Disengagement is a reasonable option in consideration of officer safety and the necessity to apprehend promptly. Disengagement, area containment, surveillance, waiting-out a subject, summoning reinforcements, or calling in specialized units may be an appropriate response to a situation and should be considered.

Force options may be used simultaneously, for instance, combining verbal commands with use of chemical irritant. An officer must choose the necessary response based on law, department policy, training, and experience. An officer must exercise proper use of force decision making, which means the use of reasonable force, including proper tactics, and de-escalation techniques.

## ANALYSIS

### *Allegation: Excessive Force*

Ms. Gray alleged that Officer Norman #P0118, F/W/33, assaulted, choked, and threw her to the ground. The BWC footage shows Ms. Gray engage in a verbal argument and Officer Norman attempted to prevent her from entering the residence as she stated she would cause "everyone" physical harm; Officer Norman stood between Ms. Gray and the door. Ms. Gray approached Officer Norman, got within inches of her face and continued to yell. Officer Norman pushed Ms. Gray back to create distance. Ms. Gray then charged the door; Officers Norman and Lowe followed after her in and pulled her out of the residence after she struck someone the head. Ms. Gray was placed into custody and escorted towards a cruiser.

The manual states, "When officers have a right to make an arrest, they may use whatever force is reasonably necessary to apprehend the offender or effect the arrest and no more." This

includes when a subject is actively resisting arrest. The examples of subject resistance provided by the CPD Procedure Manual include (but are not limited to) the following:

Active resistance: Subject is making physically evasive movements to defeat the officer's attempt at control, including bracing, tensing, pushing, fleeing; Assault or threat of assault: Subject assumes fighting stance, charges, strikes, or kicks an officer or verbally or physically indicates an intention to commit an assault combined with the subject's capability to assault.

CPD Procedure Manual § 12.545 Use of Force


Ms. Gray's actions when she pulled away from Officer Norman and resisted both Officers as they placed the handcuffs met both of these standards. CCA found that Officer Norman's actions did not violate CPD procedures, policy, or training.

## FINDINGS

### Original Allegations

Officer Shayna Norman

**Excessive Force** – There are sufficient evidence to determine that the incident did occur but did not violate CPD policies, procedures or training. **EXONERATED**

  
Morgan Givens, Investigator

12-29-2021  
Date

  
Gabriel Davis, Director

12-29-2021  
Date

**PREVIOUS  
CONTACTS AND  
COMMENDATIONS**

**Officer Shayna Norman**

**Previous Contact/s with CCA**

Officer Norman had one previous contact with CCA in the past three years.

<b>Case Number</b>	<b>Allegation</b>	<b>Finding</b>
19033	Lack of Service	Pending

**Previous Contact/s with IIS**

CCA is unaware of any additional previous contact by Officer Norman with IIS.

**Commendations**

Officer Norman received four commendation/s in the past three years.

<b>Date</b>	<b>Source of Commendation Received</b>
04/07/2017	Other Law Enforcement (OLE)
08/31/2018	Civilian
08/14/2018	CPD
09/06/2018	Civilian